

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawai'i 96813

April 8, 2016

Board of Land and Natural Resources
State of Hawai'i
Honolulu, O'ahu, Hawai'i

PSF NO.: SP0543

Sale of Lease at Public Auction for Entrance Fee Collection and Parking Management Purposes, at Diamond Head State Monument, Kapahulu, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 3-1-042:006 (por); Continuation of a Revocable Permit to Pro Park, Inc., for Entrance Fee Collection and Parking Management Purposes, Pending Public Auction, Diamond Head State Monument, Kapahulu, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 3-1-042:006 (por).

PUBLIC AUCTION REQUEST:

Sale of lease at public auction for the purpose of operating, maintaining and managing a parking lot and collecting applicable entrance fees as allowed under Chapter 13-146-6 Hawaii Administrative Rules (HAR).

LEGAL REFERENCE:

Sections 171-6, -13, -14, -14.5, -16, and other applicable sections of Chapter 171, Hawaii Revised Statutes (HRS), as amended. Chapter 13-146-6, Hawaii Administrative Rules.

LOCATION:

Diamond Head State Monument, Portion of Government lands of Kapahulu, Waikiki, Oahu, situated at Kapahulu, Waikiki, Oahu, identified by Tax Map Key: (1) 3-1-042:006 (portion), as shown on the attached map labeled Exhibit A.

AREA:

Five (5) acres, more or less. Subject to confirmation by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Conservation
County of Honolulu CZO: P-1

ITEM E-1

CURRENT USE STATUS:

Encumbered by Governor's Executive Order 2000 setting aside land for state park purposes to be under the control and management of the Department of Land and Natural Resources, Division of State Parks for the Diamond Head State Monument. Currently encumbered under revocable permit SP0543 to Pro Park Inc. for entrance fee collection and parking management purposes on a month-to-month basis. Permit expires 7/15/2016.

CHARACTER OF USE:

For the purpose of operating, maintaining and managing and collecting applicable entrance fees.

MONTHLY RENTAL:

To be determined by the highest successful bidder awarded through the IFB bid process.

COMMENCEMENT DATE:

July 15, 2016 or as determined by the Chairperson for a period of six (6) months to run continuous with the existing SP0543 to Pro Park Inc., which will expire on July 15, 2016 or the date of sale if the then current authorized occupant is the successful bidder, otherwise Sixty (60) days after the sale; provided that if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; and further provided that the Chairperson may amend the commencement date for good cause.

MINIMUM UPSET ANNUAL RENT:

To be determined by staff, subject to review and approval by the Chairperson. The highest bid shall determine the upset rent for the term of the permit.

METHOD OF PAYMENT:

Monthly payments in advance.

PERFORMANCE BOND:

Twice the annual rental amount.

CHAPTER 343 – ENVIRONMENTAL ASSESSEMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources Environmental Impact Statement Exemption List, approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item Nos. 47 and 51 as state in the Exemption Notification attached as Exhibit B.

REVOCABLE PERMIT:

APPLICANT: Pro Park, Inc.

LEGAL REFERENCE:

Chapter 13-146-6, Hawaii Administrative Rules and Sections 171-55, and other applicable sections of Chapter 102 and 171, Hawaii Revised Statutes, as amended.

AREA: Five (5) acres, more or less, subject to confirmation by the Department of Accounting and General Services, Survey Division.

CHARACTER OF USE:

For the purpose of operating, maintaining and managing entrance fee collection and parking management.

COMMENCEMENT DATE:

July 15, 2016 or as determined by the Chairperson for a period of five (5) years to run continuous with the existing SP0543 to Pro Park Inc., which permit will expire on July 15, 2016.

MONTHLY RENTAL:

Diamond Head State Monument. Ninety Percent (90%) of gross receipts from vehicle and pedestrian entrance revenue. Continuation of the existing permit rent amount under SP0543 for an additional period of six (6) months until the issuance of a new concession lease is awarded pending sale of lease at public auction to the highest bidder.

COLLATERAL SECURITY DEPOSIT:

\$10,000 as a refundable deposit.

CHAPTER 343 – ENVIRONMENTAL ASSESSEMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources Environmental Impact Statement Exemption List, approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item Nos. 47 and 51 as state in the Exemption Notification attached as Exhibit B.

DCCA VERIFICATION:

Place of business registration confirmed:	YES	<u>X</u>	NO
Registered business name confirmed:	YES	<u>X</u>	NO
Applicant in good standing confirmed:	YES	<u>X</u>	NO

REMARKS:

Background:

The Board at its meeting of May 8, 2015, under agenda item E-2, approved as amended the cancellation of a revocable permit issued to Moana Parking Management, LLC, and authorized the issuance of a revocable permit to Pro Park Inc., for parking lot operation purposes at the Diamond Head State Monument.

Subsequently, a revocable permit under SP0543 was issued to Pro Park Inc., on a month-to-month basis for the purpose of operating, maintaining and managing a parking lot and collecting applicable entrance fees at Diamond Head State Monument.

The revocable permit to Pro Park Inc. will expire on July 15, 2016 and the Applicant has expressed a desire to continue his business on the property with a month-to-month revocable permit for a period of six (6) month or until a new lease is awarded through the Invitation For Bid (IFB) process. As a result of the continued use of the property, the effective date for the continuation of Revocable Permit SP0543 for a period of six (6) months will be continuous with the existing permit for SP0543.

State Parks is seeking a long term competitive process to rebid the entrance fee collection and parking management, requests that the Board authorize approval to issue an Invitation For Bid (IFB). In the meantime, State Parks request that the Board approve the continuation of the existing revocable permit to Pro Park Inc. for an additional six (6) months until the IFB is prepared for solicitation and further recommends the Board delegate to the Chairperson the authority to negotiate any other specific terms or additional time necessary to effectuate the revocable permit.

The Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions. No comments were solicited from other government or community agencies; however, upon approval for the continuation of the revocable permit for an additional six (6) months, the applicant would need to be in compliance to all county, state and federal laws and ordinances pertaining to this permit.

State is recommending that the Board approve the continuation of the revocable permit to Pro Park Inc. for an additional six (6) months for the purpose of the collecting entrance fees and parking management at Diamond Head State Monument until an IFB is ready to be processed for solicitation and awarded to the highest bidder.

RECOMMENDATION: That the Board:

PUBLIC AUCTION:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environmental and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the sale of a lease at public auction covering the subject area for the operating, maintaining and managing a parking lot and collecting applicable parking and entrance fees purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current business, commercial or industrial general lease form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

REVOCABLE PERMIT:

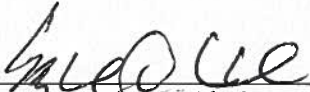
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the continuation/extension of the existing Revocable Permit SP0543 to Pro Park Inc., for six (6) months, covering the subject area for operating, maintaining and managing a parking lot and collecting applicable parking and entrance fees purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time-to-time;
 - b. Monthly rental shall be Ninety Percent (90%) of gross receipts from vehicle and pedestrian entrance revenue per month, being a continuation of the current Revocable Permit SP0543 previous permit rent pending sale of lease at public auction;
 - d. Review and approval by the Department of the Attorney General; and
 - e. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the Chairperson to negotiate any other specific terms necessary to effectuate the revocable permit.

Respectfully Submitted,



Curt A. Cottrell, Administrator
Division of State Parks

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

FORT RUBEL B/MONONGAHEA.

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Note: 41 papers owned by the State of Hawaii unless otherwise noted.

FIRST DIVISION				
ZONE	SEC.	PLAT		
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CONTAINING	PARCE			
Scale: 1 in. = 400 ft				

2845

City & County of Honolulu,
Haw. Dec. 1800

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EXMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Sale of Lease at Public Auction and Continuation of a revocable permit to Pro Park, Inc. for parking lot operation purposes pending public auction at Diamond Head Monument State Park.

Project / Reference No.: PSF SP0543

Project Location: Kapahulu, Waikiki, Honolulu, Oahu, TMK: (1) 3-1-042:006 (por).

Project Description: Continuation of a revocable permit to Pro Park, Inc. for parking lot operation purposes pending public auction at Diamond Head Monument State Park.

Chapter 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 47 that states, "Leases of state land involving negligible or no expansion of change of use beyond that previously existing," and item 51 that state "permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing," respectively.

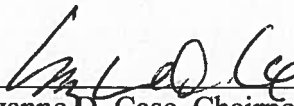
SP0543 was issued to Pro Park Inc., on a month-to-month basis on July 15, 2015 and will expire on July 15, 2016. The Applicant, Pro Park, Inc., is requesting a Continuation of the existing permit for six (6) months for the Purpose of operating, maintaining and managing a parking lot and collecting applicable parking and entrance fees for the park.

The continuation of the revocable permit to Pro Park, Inc. would allow the property to be occupied until such time that Division of State Parks is prepared to issue a new lease by public auction through the IFB bid process.

As such staff believes that the proposed event would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Not applicable.

Recommendation: It is recommended that the Board of Land and Natural Resources find that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



Suzanne D. Case, Chairperson

3/25/16

Date